

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

WESTERN DIVISION

ESTATE OF JOSE R. FELICIANO,)
 By and through Jose L. Feliciano and)
 Migdalia Rosado, as Administrators of)
 The Estate of Jose R Feliciano,)
 Plaintiff)

vs.)

Civil No. 03-30.308-MAP

KEVIN A. MILES,)
 LEROY HOLDING COMPANY, INC.,)
 and SLC TRANSPORTS, INC.,)
 Defendants)

PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION IN LIMINE
REGARDING PHOTOGRAPH NUMBER 97

The Plaintiffs hereby oppose the Defendants' Motion in Limine seeking to preclude entry into evidence photograph number 97 which depicts the J.P. Graphics business records. In response the Plaintiffs state the following:

The defendants' motion references a photograph; however, the plaintiffs do not intend to introduce a photograph of J.P. Graphics business records but rather documentary evidence of these records. The references to a numbered photograph in the defense motion actually is a reference to a proposed exhibit number sent to the defendants by the plaintiffs in connection with drafting the pre-trial memorandum in this case. The exhibits were copied or scanned and sent to the defendants on a compact disc for review. The documentary evidence of the records will be offered at trial. See Exhibit A.


With respect to the claim that the documents are hearsay, the plaintiffs state that the documents fall within the business records exception to the hearsay rule (FRE 803(6)). The decedent's father, Jose L. Feliciano, is currently operating a business named J.P. Graphics and is using the logos and business cards contained in the proposed exhibit. In addition, the exhibit contains documents which were prepared by the decedent and his father which were to be filed with the City of Springfield to register the business. The logo and business card design contained in the exhibit were created by the decedent, and are regularly used by the decedent's father.

With respect to the claim that the documents are not relevant, the plaintiffs state that the logo and business cards designed by the decedent, and the documents prepared for filing with the city, demonstrate the close family relationship between son and father, and provide evidence of the elements of loss of consortium presented by the decedent's father. See Russell v. Ramirez, 949 S.W.2d 480 (Tex. App. Houston 14th Dist. 1997), reh'g overruled, (Aug. 28, 1997), reh'g overruled (Aug 28, 1997). The decedent's father has testified at his deposition and is expected to

testify at trial that he and the decedent were planning to open a printing business together. He has and will testify that the logo, business cards, and city filing documents were prepared prior to his son's death and that his son had designed the logo and business cards. He further will testify that he has indeed started the business using the name and logo his son designed for them. The documents in this exhibit demonstrate that actual steps had been taken by father and son to start the printing business prior to the decedent's death, thereby corroborating and supporting the decedent father's testimony.

WHEREFORE, the plaintiffs hereby request this Honorable Court to deny the defendants' Motion in Limine Regarding Photograph Number 97.

Respectfully submitted,
By the Plaintiff,
The Estate of Jose R. Feliciano



Samuel M. Radner, Esq.
The Haymond Law Firm, P.C.
999 Asylum Avenue
Hartford, CT 06105
(860) 728-5672
BBO # 565988
Plaintiffs Attorneys

Dated: 4/25/05

CERTIFICATION

I, Samuel M. Radner, Esquire hereby certify that a copy of the foregoing was mailed postage pre-paid to the following counsel and pro se parties of record on April 25, 2005:

Kevin G. Murphy, Esquire
Pessalano, Dusel, Murphy & Casartello, P.C.
115 State Street, 5th Floor
Springfield, MA 01103



Samuel M. Radner, Esquire



JP Graphics

(413) 746-0745

Email: papote67@aol.com

P.O. Box 70643 Spfld., MA 01107

Phone: 746 -0745

JP Graphics

The Advertizing Specialists

Owners: Jose L. and Jose R. Feliciano
A Father and Son Production

Add: 869 Carew ST Mailing Add: P.O. Box 70643
Spfld., MA 01104 Spfld., MA 01107

Phone: 746 -0745

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CITY OF SPRINGFIELD
Commonwealth of Massachusetts

IN CONFORMITY WITH THE PROVISIONS OF CHAPTER 110, SECTION 5 OF THE GENERAL LAWS, AS AMENDED, THE UNDERSIGNED HEREBY DECLARE(S) THAT A BUSINESS IS CONDUCTED UNDER THE TITLE OF

AT

869 Carew ST. Spfld., MA 01104
(ADDRESS)

BY THE FOLLOWING NAMED PERSON(S):

FULL NAME

RESIDENCE

José Rafael Feliciano869 Carew ST Spfld, MA 01104José Luis Feliciano

SIGNATURES:

José R. Feliciano
José L. Feliciano

ON _____ THE ABOVE NAMED PERSON(S) PERSONALLY APPEARED
BEFORE ME AND MADE OATH THAT THE FOREGOING STATEMENT IS TRUE.

TITLE

IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 337 OF THE ACTS OF 1985 AND CHAPTER 110, SECTION 5 OF MASS. GENERAL LAWS, BUSINESS CERTIFICATES SHALL BE IN EFFECT FOR FOUR YEARS FROM THE DATE OF ISSUE AND SHALL BE RENEWED EACH FOUR YEARS THEREAFTER. A STATEMENT UNDER OATH MUST BE FILED WITH THE CITY CLERK UPON DISCONTINUING, RETIRING OR WITHDRAWING FROM SUCH BUSINESS OR PARTNERSHIP.

COPIES OF SUCH CERTIFICATES SHALL BE AVAILABLE AT THE ADDRESS AT WHICH SUCH BUSINESS IS CONDUCTED AND SHALL BE FURNISHED UPON REQUEST DURING REGULAR BUSINESS HOURS TO ANY PERSON WHO HAS PURCHASED GOODS OR SERVICES FROM SUCH BUSINESS.

VIOLATIONS ARE SUBJECT TO A FINE OF NOT MORE THAN THREE HUNDRED DOLLARS (\$300.00) FOR EACH MONTH DURING WHICH SUCH VIOLATION CONTINUES.

THIS CERTIFICATE VOID AFTER _____

BUSINESS CERTIFICATE FILING

Massachusetts General Law Chapter 110, Section 5 which requires the filing of business certificates has been amended effective January 2, 1986. This office brings to your attention the following significant changes.

1. A certificate filed in accordance with this law after January 2, 1986 shall be in force and effective for four years from the date of issue and shall be renewed each four years thereafter so long as such business shall be conducted and shall lapse and be void unless so renewed.
2. The filing fee in the City of Springfield is \$40.00.
3. Copies of such certificates shall be available at the address at which such business is conducted and shall be furnished on request during regular business hours, to any person who has purchased goods or services from such business.
4. All certificates filed before January 2, 1986 are void unless renewed on or before July 1, 1987. Any party requesting copies of certificates should take note of this provision. It is not necessary to file a discontinuance, retirement or withdrawal statement relating to a void certificate.
5. Violations of this law shall be punished by a fine of not more than three hundred (\$300.00) for each month during which such violation continues.

THIS OFFICE ADVISES YOU TO ADHERE TO THE PROVISIONS OF THIS STATUTE IN AS MUCH AS THESE CERTIFICATES ARE EXAMINED DAILY BY REPRESENTATIVES OF BANKS AND OTHER FINANCIAL INSTITUTIONS, STATE AND FEDERAL TAX OFFICES, CONSUMER GROUPS AND AGENCIES, ATTORNEYS, UTILITY COMPANIES, LAW ENFORCEMENT AGENCIES AND OTHER INTERESTED PARTIES.

THIS OFFICE RECOMMENDS THAT YOU OBTAIN A CERTIFIED COPY OF YOUR BUSINESS CERTIFICATE AT THE TIME OF ORIGINAL FILING IN ORDER FOR YOU TO BE IN FULL COMPLIANCE WITH THE LAW.

IF THIS OFFICE HAS RECEIVED YOUR FILING THROUGH THE MAIL, A CERTIFIED COPY MAY BE OBTAINED FOR \$10.00 BY WRITTEN REQUEST WITH THE PROPER IDENTIFYING INFORMATION AND A SELF-ADDRESSED, STAMPED ENVELOPE.

ALL CERTIFICATES MUST BE FILLED OUT IN BLACK INK ONLY !!

PLEASE PRINT ALL INFORMATION ON THE BUSINESS CERTIFICATE FORM EXCEPT FOR SIGNATURES.